

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 1:22-cv-24066-KMM

GRACE, INC.; ENGAGE MIAMI, INC.;
SOUTH DADE BRANCH OF THE NAACP;
MIAMI-DADE BRACH OF THE NAACP;
CLARICE COOPER; YANELIS VALDES;
JARED JOHNSON; and ALEXANDER
CONTRERAS,

Plaintiffs,

v.

CITY OF MIAMI,

Defendant.

**DEFENDANT’S MOTION FOR LEAVE TO FILE REPLY IN SUPPORT OF
OBJECTIONS TO MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**

Defendant, City of Miami (the “Defendant”), respectfully moves the Court for leave to file a brief Reply by May 19, 2023, in support of its Objections to the Magistrate Judge’s Report and Recommendation. As grounds, Defendant states as follows:

1. On May 3, 2023, the Magistrate issued a 101-page Report and Recommendation and ordered any objections to be filed on or before Saturday, May 13, 2023, with Plaintiffs to respond by May 19, 2013. [DE 52, at 100]. On May 13, 2023, the City filed its objections. DE 55. On May 18, 2023, Plaintiff filed their response. DE 57.

2. In their response, Plaintiffs made several misstatements to which the City would like to respond. For example, they asserted that the City asserted “it had trouble finding published cases where courts have approved maps with VRA-protected districts under 50% BVAP.” DE 57 p.5. That is inaccurate. The City said it was unaware of any case that “found that an election district that needed to be created under the VRA nevertheless had to be created at less than 50%. DE 55 p.15. While it is one thing to put such a district into a settlement

agreement it is entirely different to find that the VRA requires it. The City would like to reply to explain how this would upend the VRA.

3. The Plaintiffs also tried to give a misleading impression that District 5's Black voter registration did not go down by stating the District 5's borders changed. DE 57 p.6-7. The City would point the Court to the record showing that the decline is undeniable, and that there was a citywide decline in Black registered voters.

4. More importantly, the City would like to address Plaintiffs' argument with respect to the remedy and how the order would make any map undrawable because of challenges, not just from the named plaintiffs, but from any constituency that is unhappy with a district's proposed configuration.

5. Finally, Plaintiffs' response hints for the first time that they are seeking a sweeping yet undisclosed change (DE 57 p.10), and the City would like to address how it would affect the timeline if the "enjoin now and sort it out later" approach is taken. The *Purcell* principle, which the City will show is not subject to waiver, would be directly implicated.

6. Defendant's counsel has conferred with Plaintiffs' counsel, Nicholas Warren, Esquire, who does not oppose the relief sought.

7. A proposed Order is attached in compliance with Local Rule 7.1(a)(2).

WHEREFORE, Defendant respectfully moves the Court for leave to file a reply brief by May 19, 2023, in support of its Objections to the Magistrate Judge's Report and Recommendation.

Dated this 18th day of May, 2023.

Respectfully submitted,

GRAYROBINSON, P.A.
333 S.E. 2nd Avenue, Suite 3200
Miami, Florida 33131
Telephone: (305) 416-6880
Facsimile: (305) 416-6887

By: s/ Christopher N. Johnson
Christopher N. Johnson, Esq.
Florida Bar No. 69329
christopher.johnson@gray-robinson.com

GRAYROBINSON, P.A.
Jason L. Unger, Esquire
Florida Bar No. 991562
Andy Bardos, Esquire
Florida Bar No. 822671
George T. Levesque, Esquire
Florida Bar No. 0555541
301 S. Bronough Street
Suite 600
Tallahassee, Florida 32301
Telephone: (850) 577-9090
Facsimile: (850) 577-3311

CITY OF MIAMI
Kevin Jones, Esquire
Florida Bar No. 119067
Bryan Capdevila, Esquire
Florida Bar No. 119286
Eric Eves, Esquire
Florida Bar No. 91053

Office of the City Attorney
444 S.W. 2nd Avenue
Miami, FL 33130
Telephone: (305) 416-1800
Facsimile: (305) 416-1801

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 18, 2023, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties either via transmission of Notice of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: s/ Christopher N. Johnson
Christopher N. Johnson, Esq.